

REMARKS

I. Introduction

Claims 17-36 are currently pending in the present application. Claims 17-21 have been amended. In view of the following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration of the present application is respectfully requested.

Applicants thank the Examiner for accepting the drawings filed on January 24, 2005.

II. Objection to the Specification

The Examiner objected to the Abstract because it is longer than 150 words. In response, the Abstract has been amended to be shorter than 150 words. Applicants respectfully submit that the amended Abstract is in proper form.

III. Rejection of Claims 25-36 Under 35 U.S.C. § 112, ¶ 2

Claims 25-36 were rejected under 35 U.S.C. § 112, ¶ 2, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. The Examiner contends that “wherein” clauses are “statements of intended use or field of use” that “suggests or makes optional but does not require steps to be performed or does not limit the scope of a claim or claim limitation (MPEP § 2106.II.C).” In response, Applicants note that there is no prohibition against the use of the “wherein” clauses in claims. In particular, nothing in MPEP § 2106.II.C suggests any prohibition of “wherein” clauses. In addition, the plain language of the “wherein” clauses in claims 25-36 clearly indicate actions performed, and there is no reasonable interpretation of these clauses that would support the Examiner’s contention that these “wherein” clauses merely “suggests or makes optional” the recited actions. Furthermore, even if one assumed for the sake of argument that the Examiner was correct in contending that the “wherein” clauses are “statements of intended use or field of use” (which assertion is clearly incorrect), inclusion of such “statements of intended use or field of use” would not render a claim indefinite under 35 U.S.C. § 112, ¶ 2.

For at least the foregoing reasons, Applicants submit that claims 25-36 are in compliance with 35 U.S.C. § 112, ¶ 2.

IV. Rejection of Claims 17-36 Under 35 U.S.C. § 102(e)

Claims 17-36 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,650,981 ("Sekizuka").

To anticipate a claim under §102(e), each and every element as set forth in the claim must be found in a single prior art reference. Verdegaal Bros. v. Union Oil Co. of Calif., 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Furthermore, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim." Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). That is, the prior art must describe the elements arranged as required by the claims. In re Bond, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). To the extent that the Examiner may be relying on the doctrine of inherent disclosure for the anticipation rejection, the Examiner must provide a "basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics necessarily flow from the teachings of the applied art." (See M.P.E.P. § 2112; emphasis in original; see also Ex parte Levy, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990)).

Amended claim 17 recites, in relevant parts, "an impact detection unit . . . wherein, in the event of an impact, the **impact detection unit generates a request signal for the restraining unit, the request signal corresponding to a type of impact** that has been detected; a rotation detection unit . . . , wherein the rotation detection unit generates **a status signal corresponding to a rotational motion status**; and a circuit generating the triggering signal for the restraining unit, wherein **the circuit combines the request signal and the status signal in generating the triggering signal**, whereby information regarding one of a possible occurrence and the existence of a rotational motion is considered in triggering the restraining unit." Independent claim 25 recites substantially similar method features corresponding to the above-recited features of amended claim 17.

Regarding claims 17-24, the Examiner contends that "for detecting," "for generating," "for determining," and "for predicting" clauses are statements of intended use or desired use which do not serve to patentably distinguish the claimed structure. While Applicants disagree with the Examiner, Applicants have amended claims 17-21 to eliminate "for" in the clauses, such that these clauses clearly do not recite mere intended use or desired use. In addition, to the extent the Examiner may be contending that functional limitations

may be completely ignored, this contention is clearly incorrect: “A functional limitation must be evaluated and considered, just like any other limitation of the claim.” (MPEP 2173.05(g)).

Sekizuka discloses a control system for controlling a vehicle occupant protection apparatus, which control system detects a roll-over by evaluating the roll rate and the lateral acceleration. (Col. 1, lines 10-15). Using the chart shown in Fig. 8, it is detected whether a coordinate pair consisting of a roll rate value and a lateral acceleration is within roll-over regions. However, Sekizuka clearly fails to show “an impact detection unit detecting an impact of a vehicle.” An impact or a collision is simply not mentioned in Sekizuka, and hence Sekizuka also fails to mention **a request signal for a restraining unit**. Furthermore, in contrast to claim 17, nothing in Sekizuka even remotely suggests “a circuit generating the triggering signal for the restraining unit, wherein **the circuit combines the request signal and the status signal in generating the triggering signal.**” In other words, the system of claim 17 requires a circuit that generates a triggering signal depending on a consideration of the status signal referring to a rotation of the vehicle, but there is simply no such circuit suggested in Sekizuka.

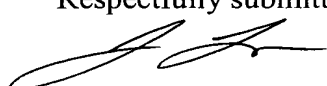
With respect to the method claims 25-36, the Examiner does not address most of the limitations of the independent claim 25, apparently because the Examiner believes the “wherein” clauses are “statements of intended use or field of use” that may be ignored. However, as explained in connection with the rejection under 35 U.S.C. § 112, ¶ 2, Applicants note that the plain language of the “wherein” clauses in claims 25-36 clearly indicate actions performed, and there is no reasonable interpretation of these clauses that would support the Examiner’s contention that these “wherein” clauses merely “suggests or makes optional” the recited actions. Accordingly, the “wherein” clauses of claims 25-36 must be considered as relevant claim features, and as explained in connection with the counterpart system claim 17, an impact or a collision is simply not mentioned in Sekizuka, and hence Sekizuka also fails to mention **generating a request signal for a restraining unit**. Furthermore, in contrast to claim 25, nothing in Sekizuka even remotely suggests that “the **request signal and information** regarding one of the possible occurrence of a rotational motion and the existence of a rotational motion **are considered in generating the triggering signal.**”

For at least the foregoing reasons, claims 17 and 25, as well as their dependent claims 18-24 and 26-36, are not anticipated by Sekizuka.

V. Conclusion

It is therefore respectfully submitted that the pending claims 17-36 are allowable. All issues raised by the Examiner have been addressed, and an early and favorable action on the merits is solicited.

Respectfully submitted,

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